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Subchapter 12A CSRS and FERS

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Subchapter 12A CSRS and FERS**Part 12A1 General Information****Section 12A1.1-1 Overview**

A. Introduction

This chapter contains unique coverage rules that apply to specific groups of individuals and employment situations under CSRS and FERS. If not otherwise excluded by law or regulation, the persons described in this chapter are covered by CSRS or FERS. That is, retirement contributions are being deducted from their salaries or they are making current payments to the retirement fund in order to receive credit for their service.

An extensive discussion of coverage is contained in Chapter 10, Coverage, of this Handbook. Other types of service that are creditable but not necessarily "covered" are discussed in Chapter 20, Creditable Service.

If you have an inquiry about service that is not covered in one of the chapters referenced above, direct your questions through your agency employing office to the headquarters Retirement Counselor who may, as necessary, contact the Retirement and Insurance Service at OPM.

B. Topics Covered

This chapter covers:

- The definition of "employee" for CSRS in 5 U.S.C. 8331(1) and for FERS in 5 U.S.C. 8401(11);
 - Situations that allow former employees to continue retirement coverage during a period of service with a non-Federal entity;
 - Rules that apply to non-Federal employees who are covered by CSRS or FERS (other than by continuation of coverage); and
 - Miscellaneous coverage rules.
-

Section 12A1.1-1 Overview (Cont.)**C. Organization of Chapter** This chapter has five parts.

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D. Statement of Authority Various laws and regulations apply to the contents of this chapter. The appropriate statutory and/or regulatory reference is noted in each section.

Part 12A2 More "Employees" for Retirement Purposes**Section 12A2.1-1 Additional Individuals Who Are "Employees" for CSRS Purposes**

A. General

The definition of "employee" for CSRS is given in 5 U.S.C. 8331(1). It includes individuals who are considered Federal employees because they meet the tests of Federal employment as described in Chapter 10, Coverage, and specifies several other classes of individuals who are considered "employees" for retirement purposes.

B. Additional Employees

In addition to individuals who meet the definition of "employee" under 5 U.S.C. 2105(a) (see Chapter 10, section 10A1.1-2, paragraph F), 5 U.S.C. 8331(1) lists:

- The Architect of the Capitol, an employee of the Architect of the Capitol, and an employee of the Botanic Garden;
- A Congressional employee as defined by 5 U.S.C. 2107, after such employee gives notice in writing to the official by whom he or she is paid of his or her desire to become subject to CSRS;
- A temporary Congressional employee appointed at an annual rate of pay, after such employee gives notice in writing to the official by whom he or she is paid of his or her desire to become subject to CSRS;
- A United States Commissioner whose total pay for services performed as a Commissioner is not less than \$3,000 in each of the last 3 consecutive calendar years;
- An individual employed by a county committee established under 16 U.S.C. 590h(b);
- An individual first employed subject to CSRS by the government of the District of Columbia before October 1, 1987;
- An individual employed by Gallaudet University;
- An individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

Section 12A2.1-1 Additional Individuals Who Are "Employees" for CSRS Purposes (Cont.)**B. Additional
"Employees"
(Cont.)**

- An alien:
 1. Who was previously employed by the Government,
 2. Who is employed full time by a foreign government for the purpose of protecting or furthering the interests of the United States during an interruption of diplomatic or consular relations, and
 3. For whose services reimbursement is made to the foreign government by the United States;
 - An individual appointed to a position on the office staff of a former President or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other provision of this paragraph; and
 - An employee of a nonappropriated fund instrumentality under the jurisdiction of the armed services as described in 5 U.S.C. 2105(c) who has made an election to remain covered under CSRS.
-

Section 12A2.1-2 Additional Individuals Who Are "Employees" for FERS Purposes

A. General

The definition of "employee" for FERS is given in 5 U.S.C. 8401(11). It includes individuals who meet the test of Federal employment as described in Chapter 10 of this Handbook and specifies other classes of individuals who are considered "employees" for retirement purposes.

B. Additional Employees

In addition to individuals defined as "employees" under 5 U.S.C. 2105(a) (see Chapter 10, section 10A1.1-2, paragraph F), 5 U.S.C. 8401(11) lists:

- A United States Commissioner whose total pay for services performed as a Commissioner is not less than \$3,000 in each of the last 3 consecutive calendar years;
- An individual employed by a county committee established under 16 U.S.C. 590h(b);
- An individual employed by Gallaudet University;
- An individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);
- An alien:
 1. Who was previously employed by the Government,
 2. Who is employed full time by a foreign government for the purpose of protecting or furthering the interests of the United States during an interruption of diplomatic or consular relations, and
 3. For whose services reimbursement is made to the foreign government by the United States; and
- An individual appointed to a position on the office staff of a former President or Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other provision of this paragraph;

Section 12A2.1-2 Additional Individuals Who Are "Employees" For FERS Purposes (Cont.)**B. Additional
Employees
(Cont.)**

- A Congressional employee as defined in 5 U.S.C. 2107, including a temporary Congressional employee and an employee of the Congressional Budget Office; and
 - An employee of a nonappropriated fund instrumentality under the jurisdiction of the armed services as described in 5 U.S.C. 2105(c) who has made an election to remain covered under FERS.
-

Part 12A3 Continuation of Coverage**Section 12A3.1-1 Continuation of Coverage When Serving in a Non-Federal Entity**

A. General

This part identifies the circumstances where the law provides for continuation of retirement coverage when a person leaves his or her Federal position to serve in a non-Federal entity.

In some cases, the person's status as a Federal employee continues during the period of service with the non-Federal entity. In other cases, retirement coverage continues even though the person's Federal employment has ended and the person is not considered a Federal employee during the service.

Section 12A3.1-2 Employees Serving in Employee Organizations

A. General Rule

Under 5 U.S.C. 8332(k)(1) (formerly Public Law 89-504, effective July 18, 1966) and 5 U.S.C. 8411(e), Federal employees who take leave without pay (LWOP) to serve as full-time officers or employees of an employee organization may continue retirement coverage if both of the following conditions are met:

- The employee makes a written election to retain CSRS or FERS coverage; and
- The employee currently deposits both the employee and agency retirement contributions into the retirement fund.

B. Requirement of Written Election

1. An employee who goes on LWOP to serve as an officer or employee of an employee organization may make a written election to retain CSRS or FERS coverage and to receive full retirement credit for his or her LWOP within 60 days of entering on LWOP.
2. If the employee does not elect to retain coverage within the designated period, **no** retirement credit is allowed for the service with the Federal employee organization. The general rule allowing credit for 6 months of LWOP in a calendar year **does not** apply >for retirement, leave, or RIF purposes.<
3. If the employee does not elect to retain coverage, he or she is considered to have separated from Federal service. Consequently, the employee may receive a refund. Also, upon return to Federal service the LWOP would be treated as a break in service for purposes of providing a FERS election and to determine Social Security coverage. If the individual dies while serving in a position with the employee organization, the lump-sum credit is payable in accordance with the order of precedence in 5 U.S.C. 8342(c) (provided the employee did not receive a refund).

NOTE 1: See Job Aid #1 in subchapter 12B.

NOTE 2: A survivor annuity may be payable in the event of the death of certain former FERS employees. See Chapter 72, Spouse Benefits - Death of a Former Employee, for further details.

Section 12A3.1-2 Employees Serving in Employee Organizations (Cont.)**C. Requirement of Current Deposit of Retirement Contributions**

1. Contributions are considered to be currently deposited if they are received by the Federal agency from which the employee is on leave no later than 3 months after the end of the pay period covered. If the contributions are not currently deposited, the retirement coverage is terminated on the last day of the pay period for which the required contributions were currently deposited. If retirement coverage terminates, the agency must close out the individual's retirement record, Standard Form 2806 or 3100, showing the effective date of the termination of retirement coverage, and forward the form to OPM. (See Chapter 81, The Individual Retirement Records and Registers of Separations and Transfers.)
2. Contributions must be based on the salary the employee would have received had he or she remained in the position from which he or she is on leave.

NOTE: The agency share of retirement contributions is paid by the employee. (Follow the regular rules in Chapter 80, Payroll Office Reporting of Deductions and Contributions, and Chapter 81, Individual Retirement Records and Registers of Separations and Transfers, for instructions on recording and submitting the employee deduction and agency contribution for these individuals.)

D. LWOP Prior to July 18, 1966

Any employee covered by CSRS or FERS on or after July 18, 1966, has the option of depositing deductions with interest for period(s) of service before July 18, 1966, while on LWOP to perform duties as a full-time union officer. Such deposit makes the LWOP period(s) creditable for all retirement purposes. If a full deposit is not made, only the LWOP not exceeding 6 months in a calendar year may be credited for the service performed before July 18, 1966.

Section 12A3.1-3 Employees Assigned to State or Local Governments, Institutions of Higher Learning, or Other Nonprofit Organizations

A. General

The head of a Federal agency may arrange (either on a detail or leave-without-pay basis) for the assignment of an agency employee to a State or local government, institution of higher learning, or other nonprofit organization certified for participation by OPM. Conversely, the law also allows for a State or local government employee to be assigned to a Federal agency.

B. Rule: Continuing Coverage While on LWOP

Under CSRS and FERS (see 5 U.S.C. 3371 et seq.), a Federal employee who is on LWOP during a temporary assignment by an agency head to serve with a State or local government, an institution of higher learning, or other nonprofit organization, may continue full retirement coverage under CSRS or FERS if all of the following conditions are met:

- The State or local government, institution of higher learning, or other nonprofit organization makes a written request for the employee's services and receives written consent from the employing Federal agency;
 - The employee consents to the assignment, and agrees to serve in the Federal service upon completion of the assignment for a period equal to the length of the assignment;
 - The employee makes a written election to retain retirement coverage;
 - Both the employee and agency retirement contributions are currently deposited in the retirement fund; and
 - The employee does not elect to receive any benefit from the State or local government's retirement system if OPM determines it is similar to CSRS or FERS. Agency headquarters retirement counselors should contact their OPM liaison for a determination.
-

Section 12A3.1-3 Employees Assigned to State or Local Governments, Institutions of Higher Learning, or Other Nonprofit Organizations (Cont.)**C. Requirement of Written Election**

1. An employee on LWOP during a temporary assignment with a State or local government, institution of learning, or other nonprofit organizations must make a written election to retain retirement coverage during his or her LWOP and continue to pay the employee's contribution into the retirement fund. (See subchapter 12B.)
2. If the employee elects not to retain retirement coverage, he or she receives credit for as much of the LWOP as does not exceed 6 months in a calendar year, unless he or she elects to receive benefits from a similar State or local retirement system, in which case no credit is given.

NOTE: Because the employee is in a LWOP status while on assignment, death-in-service benefits are payable to any eligible survivor, even when the employee does not elect to continue retirement coverage, provided that the survivor does not elect similar State or local benefits.

D. Requirement of Current Deposit of Retirement Contributions

1. Contributions are considered to be currently deposited if they are received by the Federal agency from which the employee was assigned within 3 months of the end of the pay period covered by the deposit. If the contributions are not currently deposited, retirement coverage ends on the last day of the pay period for which the required contributions were currently deposited.
2. Contributions are based on the salary that the employee would have received had he or she remained in the position from which he or she was assigned.
3. An employee who elects **not** to pay his or her retirement contributions while on a mobility assignment cannot retroactively pay any contributions.

E. Agency Responsibility

1. The Federal agency is responsible for furnishing the employee with specific information about how, when, and where employee contributions are to be submitted.
2. The Federal agency must determine the applicable rate of basic pay in accordance with 5 U.S.C. 3373 for retirement, Medicare, and group life insurance.

Section 12A3.1-3 Employees Assigned to State or Local Governments, Institutions of Higher Learning, or Other Nonprofit Organizations (Cont.)

| | |
|---|--|
| E. Agency Responsibility (Cont.) | <p>3. In addition, the agency also must collect, account for, and deposit in the appropriate retirement account, the employee retirement contribution required for continued retirement coverage. The agency also must submit the required agency contributions. (Follow the regular procedures in Chapter 80, Payroll Office Reporting of Deductions and Contributions, to report deductions and contributions.)</p> <p>4. If a CSRS employee did not continue retirement coverage during LWOP, he or she may elect FERS upon returning to Federal service. (There is a constructive break in service if the employee (1) did not continue retirement and (2) elects to receive a State benefit.)</p> |
| F. Duration of Assignment | <hr/> <p>An assignment under this provision may not exceed 2 years duration unless extended by the head of the agency. The extension may not be more than an additional 2 years, except for assignments to Indian tribes as provided in 5 U.S.C. 3372.</p> |
| G. Detail Assignments | <hr/> <p>A Federal employee on detail under these provisions is not on LWOP. He or she remains within the jurisdiction of the Federal government and remains on the Federal payroll. Therefore, retirement coverage continues without the necessity of an election, retirement deductions are made on a regular basis, and the service is creditable subject to the time limitations noted in paragraph F.</p> |
| H. Assignment of a State/Local Government Employee to the Federal Government | <hr/> <p>Retirement coverage is not extended to any non-Federal employee who is assigned to an executive agency by either detail or appointment. According to 5 U.S.C. 3374(b), such an individual is not an employee of the Federal government for CSRS or FERS purposes.</p> <hr/> |

Section 12A3.1-4 Transfers and Details to International Organizations

A. General Rule

Under 5 U.S.C. 3581 et seq. (formerly Public Law 85-795 (effective August 28, 1958) as amended by Public Law 91-175, effective December 30, 1969), and section 352.309 of title 5, Code of Federal Regulations, an employee who transfers from a position covered by CSRS, CSRS Offset, or FERS to a public international organization may continue retirement coverage for up to 5 years of such service (or up to 8 years in the aggregate if authorized by the Secretary of State) if all of the following conditions are met:

- The international organization makes a written request for the employee's services and receives written consent from the employing Federal agency;
- The employee makes a written election to retain retirement coverage (see Job Aid #1, Documentation of and Advice for Federal Employees Serving in Non-Federal Organizations, in subchapter 12B);
- Both the employee and agency retirement contributions are currently deposited in the retirement fund; and
- The employee does not use the period of service as the basis for an annuity or pension under the retirement system of the international organization.

NOTE 1: Employees also must be given the opportunity to elect to continue health benefits and group life insurance under section 352.309 of title 5, Code of Federal Regulations.

NOTE 2: The Federal Retirement Thrift Investment Board has determined that employees who transfer to international organizations are not eligible to participate in the Thrift Savings Plan. Any inquiries concerning the Federal Thrift Savings plan should be directed to the Federal Retirement Thrift Investment Board.

Section 12A3.1-4 Transfers and Details to International Organizations (Cont.)**A. General Rule
(Cont.)**

NOTE 3: See Chapter 20, Creditable Service, for information on the creditability of service with international organizations prior to the enactment of Public Law 85-795 on August 28, 1958. (Also see 5 CFR Part 352, Reemployment Rights.)

NOTE 4: Job Aid #2 in subchapter 12B contains a list of international organizations within the meaning of 5 U.S.C. 3581. If an international organization is not on this list, the agency headquarters level Benefits Officer should contact the Agency Services Division in the Retirement and Insurance Service at OPM for assistance.

NOTE 5: For information relating to transfers that occurred before January 1, 1995, see section 12A3.1-4, paragraphs C and D.

**B. Requirement of
Current Deposit
of Retirement
Contributions**

1. Retirement contributions are considered to be currently deposited if they are received by the Federal agency from which the employee transferred within 3 months after the end of the pay period covered by the deposit. If the contributions are not currently deposited, the retirement coverage terminates on the last day of the pay period for which the required contributions were currently deposited.

2. Contributions must be based on the salary that the employee would have received had he or she remained in the position from which he or she transferred.

NOTE 1: The agency share of retirement contributions must be paid by the Federal agency from which the employee transferred, as long as employee contributions are made by the employee. (See 5 U.S.C. 3582(d).)

NOTE 2: If retirement coverage terminates during the transfer, the agency must close out the individual's retirement record, Standard Form 2806 or 3100, showing the effective date of the termination of retirement coverage, and forward the form to OPM. (See Chapter 81, Individual Retirement Records and Registers of Separations and Transfers.)

Section 12A3.1-4 Transfers and Details to International Organizations (Cont.)**C. Service Before
January 1, 1995**

Before January 1, 1995, the Internal Revenue Code did not allow Social Security coverage during employment with an international organization outside the United States. Employees who transferred to international organization positions within the United States were subject to Social Security self-employment tax. This meant that CSRS Interim, CSRS Offset, and FERS employees who transferred under section 3582 to positions in the United States could continue their retirement coverage with no changes (other than the Thrift Savings Plan) if the basic rules described in paragraph A were followed. CSRS Interim and CSRS Offset employees who elected to continue retirement coverage in positions outside the United States reverted to having only CSRS coverage.

FERS employees who transferred to international organizations outside the United States before 1995 were not given the opportunity to retain FERS coverage during the transfer. However, OPM has reviewed the applicable provisions of law and determined that employees who were not allowed to continue FERS coverage on the basis of their lack of FICA coverage may elect to have FERS basic benefits coverage retroactively. The employing agency should provide any affected employee with an opportunity to make a retroactive election.

To obtain this coverage, the employee must make the statutorily-required deposit equal to the amount of the FERS basic benefits deductions that would have been withheld from pay had he or she remained employed in the Federal agency. The deposit is paid to the employing agency and recorded on Standard Form 3100, the FERS Individual Retirement Record. The appropriate employer share must be submitted to OPM by the employing agency under existing procedures.

**D. Service After
December 31,
1994**

Effective January 1, 1995, section 319 of Public Law 103-296, the Social Security Independence and Program Improvements Act of 1994, requires that FERS and CSRS Offset employees who transfer to international organizations continue their FICA coverage (including the Old-Age, Survivors, and Disability Insurance (OASDI) and Medicare taxes), if both of the following conditions are met:

1. The transferring employee must have been employed at a Federal agency and subject to FICA immediately prior to the transfer; and
2. The employee must retain Federal reemployment rights under section 3582.

Section 12A3.1-4 Transfers and Details to International Organizations (Cont.)**D. Service After
December 31,
1994 (Cont.)**

Under these conditions, FICA coverage applies, regardless of where the service with the international organization is actually performed. FICA tax is required for these transferred employees even if they are not continuing CSRS Offset or FERS coverage during the transfer. While employed by an international organization, an employee's FICA tax, like retirement and life insurance contributions, is based on the amount of pay the employee would have received had he or she remained at the transferring agency. Effective January 1, 1995, the Social Security self-employment tax no longer applies to international organization service performed within the United States.

The Federal agency from which the employee transfers is responsible for computing and billing owed FICA tax, both employee and employer shares, and for the payment of collected FICA tax. An agency must submit the employer share of FICA even when an employee fails to submit payment of the employee portion of FICA tax.

As explained in paragraph A, employees transferring to an international organization must be given the opportunity to elect to continue retirement (other than the Thrift Savings Plan), health benefits, and group life insurance under section 352.309 of title 5, Code of Federal Regulations. In addition, any employee who is now employed under a transfer to an international organization abroad and who has not been given the right to elect continuation of FERS should be given the opportunity to elect FERS. In the case of a CSRS Offset employee who continued CSRS coverage, the employee must revert to CSRS Offset coverage effective January 1, 1995. FERS employees who elect coverage will be responsible for retirement contribution payments retroactive to the transfer to the international organization. CSRS employees reverting to CSRS Offset must have their payroll records adjusted effective January 1, 1995, to reflect CSRS Offset contributions.

Section 12A3.1-4 Transfers and Details to International Organizations (Cont.)**D. Service After
December 31,
1994 (Cont.)**

Under the conditions stated above, FICA tax is mandatory for all CSRS Offset and FERS employees on a section 3582 transfer to an international organization, effective January 1, 1995. Whether or not the employee elects retirement coverage, the employee is no longer exempt from FICA tax during international organization service. Since FICA tax is mandatory, employees who were eligible to retroactively continue FERS or CSRS Offset coverage (regardless of their election decisions) are subject to FICA tax retroactive to January 1, 1995.

NOTE: The Federal Retirement Thrift Investment Board has determined that the amendments of Public Law 103-296 do not change the status of these employees for the purpose of contributing to the Federal Thrift Savings Plan.

**E. When Employee
Dies While
Serving With an
International
Organization**

The death benefits payable in the case of an employee who transfers to an international organization and dies before returning to Federal service depends on whether the individual's retirement coverage continued in effect at the time of death. The death is treated as a death in service if --

1. The employee dies in a period during which he or she retained retirement coverage while on transfer to the international organization, as provided above; or
2. The employee continued retirement coverage during the service with the international organization and dies after separating from the international organization but before his or her reemployment rights under 5 U.S.C. 3582(b) have expired.

The death of an individual who did not continue coverage under the retirement system, or who remained with the international organization for more than the maximum term of 5 years (or, if authorized by the Secretary of State, 8 years in the aggregate), is **not** considered a death in service, and is treated the same as the death of a separated employee.

Section 12A3.1-4 Transfers and Details to International Organizations (Cont.)**F. Reemployment
After Service
With an
International
Organization**

If an employee was exempt from the OASDI portion of the Social Security tax before being detailed or transferred to an international organization, the employee continues to be exempt upon returning to service, even if the period with the international organization is over 1 year. If the employee is not reemployed within 1 year after separating from the international organization in a Federal appointment exempt from the OASDI tax, the employee would not be exempt upon later Federal employment. If the employee is reinstated after a transfer, he or she will have a 6-month period in which to elect FERS coverage.

**G. Details to
International
Organizations**

Title 5 U.S.C. 3343 authorizes Federal agencies to detail employees to an international organization requesting the employees' services.

An employee on detail to an international organization remains an employee of his or her agency for all purposes. Therefore, an employee covered by CSRS or FERS when detailed retains coverage for the duration of the detail.

NOTE: Prior to the effective date of Public Law 85-795 on August 28, 1958, details were not permitted to any international organization except the United Nations Relief and Rehabilitation Administration (UNRRA) during the period November 9, 1943, through March 31, 1949. Covered employees who were detailed to UNRRA during that period were considered employees of the agency from which they were detailed and received full retirement credit for that service. (See Public Law 83-82, approved June 30, 1944.)

Section 12A3.1-5 Employees Who Transfer to Indian Tribal Organizations

A. General Rules

Section 105(e) of Public Law 93-638, the Indian Self-Determination Act and Education Assistance Act (codified as 25 U.S.C. 450i(e)), as amended, allows a Federal employee serving under an appointment not limited to 1 year or less who leaves Federal employment in order to accept employment with an Indian tribal organization or the cities or village corporations of St. Paul or St. George, Alaska, to continue coverage under CSRS or FERS. More specifically, this section provides that "an employee serving under an appointment not limited to 1 year or less, who leaves Federal employment to be employed by a tribal organization, in connection with governmental or other activities which are or have been performed by employees in or for Indian communities" is entitled to retain certain Federal benefits if there is a mutual agreement between the tribal organization and the employee. The employee may retain coverage rights and benefits under the:

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|---|-------|
| Civil Service Retirement System | |
| Federal Employees Retirement System | |
| Compensation for Work Injuries under the Office of Workers' | Co |
| | mpe |
| | nsati |
| | on |
| Thrift Savings Plan | |
| Federal Employees' Group Life Insurance | |
| Federal Employees' Health Benefits | |

The Federal agency has a responsibility to fully inform and counsel employees desiring to transfer to tribal employment of their rights and obligations under Public Law 93-638.

When a tribal government or tribal organization contracts with a Federal agency under authority of Public Law 93-638 to assume a function previously performed by civil service employees, the function ceases to exist at the agency at that location. Therefore, the civil service positions are effectively abolished through implementation of the contract.

The tribe/tribal organization may elect, under these circumstances, to offer employment to the incumbents of the civil service positions or to negotiate IPA assignments for the incumbents. However, there is no obligation for the tribe/tribal organization to do so, and failure to offer tribal employment or an IPA assignment is not appealable under Federal statute. Affected employees not offered tribal employment or an IPA assignment must be outplaced in other agency vacancies or separated through RIF.

Section 12A3.1-5 Employees Who Transfer to Indian Tribal Organizations (Cont.)**B. Conditions for
Retention of
Benefits**

The tribe/tribal organization's agreement to continue benefits must be documented on RI 38-130 **prior** to the effective date of termination of the employee's Federal employment. This form must be completed by both the employee and the tribal organization.

The employee must be employed by the tribe/tribal organization with no break in service from his/her Federal employment.

The necessary employee deductions and tribal employer contributions for the period of employment with the tribal organization must be deposited (paid into the appropriate civil service fund) for retirement, health benefits, and life insurance.

**C. Processing the
Employee's
Resignation from
the Federal
Agency and
Employment with
the Tribe/Tribal
Organization**

When an individual makes it known to his/her immediate supervisor that he/she intends to resign in order to go to work for the tribe/tribal organization, the supervisor notifies the agency personnel office by sending an SF 52, Request for Personnel Action, through the appropriate agency channels. The SF 52 establishes the effective date of the resignation and must be signed by the employee. The SF 52 is accompanied by a transmittal memorandum from the employee requesting retention of Federal employment benefits and a completed RI 38-130 in original and three copies. The "Kind of Action Requested" on the SF 52 will include the statement "Resignation - Under P. L. 93-638." SF 52 remarks include: "Reason: to accept employment without a break in service under P.L. 93-638 with (name of tribe/tribal organization)," and "Retirement Retained: Sick Leave Balance (hours)" if applicable.

Section 12A3.1-5 Employees Who Transfer to Indian Tribal Organizations (Cont.)

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| D. Benefit Contributions for Former Federal Agency Employees Working for Tribe/Tribal Organizations | <p>The tribal organization sends the employee and tribal contributions to the former agency payroll office, which will add them to its regular submissions to the U.S. Office of Personnel Management for retirement, health benefits, and life insurance.</p> <p>The tribal organization makes checks payable to the agency and includes the following identifying information:</p> <ol style="list-style-type: none">1. The name and social security number of the employee to whom the payment should be credited;2. The time period the payment covers;3. Identification of the contribution being made (retirement, life insurance, or health benefits); and4. The words "Indian Self-Determination Act Contribution." |
| E. Non-Retention of Benefits | <p>NOTE: If the employee elects to continue coverage and dies while serving with the tribal organization, death-in-service benefits are payable to eligible survivors.</p> <hr/> <p>Whenever a Public Law 93-638 contract is written, the tribe/tribal organization has the option of offering current Federal employees employment without choosing to offer a continuation of their Federal benefits. An employee who resigns to accept tribal employment under these conditions has the same rights as any other employee separating from the Federal service--for example, to receive a refund of retirement deductions if not eligible for an immediate annuity.</p> |

Section 12A3.1-6 Federal Aviation Administration (FAA) Employees Who Became Employees of the Metropolitan Washington Airports Authority

| | |
|-------------------------------------|--|
| A. General | Public Law 99-500, enacted October 18, 1986, gave the Secretary of Transportation authority to lease Washington National Airport and Dulles International Airport to the Metropolitan Washington Airports Authority (MWAA) for 50 years. As part of this legislation, certain FAA employees who became MWAA employees retained CSRS or FERS coverage as if they were still employed by the Federal government. |
| B. Rule: Continuing Coverage | <p>All of the following conditions must have been met in order for an MWAA employee to continue retirement coverage under CSRS or FERS:</p> <ul style="list-style-type: none"> • The employee must have been a permanent FAA employee assigned to the Metropolitan Washington Airports Authority who elected to transfer to the MWAA; • The employee must have been subject to CSRS or FERS coverage on the day before the date the lease took effect (the lease took effect June 6, 1987); and • The employee must remain continually employed by the MWAA without a break in service. |
| C. Employee Deductions | MWAA employees who have continued CSRS or FERS coverage are deemed to consent to CSRS or FERS deductions from their basic pay. The amount deducted is the same as if they were employed by the Federal government. The MWAA pays the amounts deducted into the retirement fund. |
| D. Employer Contributions | The MWAA must pay into the retirement fund amounts equal to any agency contribution that would be required for employees covered by CSRS or FERS. |
| E. Sick Leave | An employee who retired (or died leaving a survivor entitled to an annuity) from the MWAA within the 5-year period beginning on June 7, 1987, received credit for unused sick leave in his or her annuity computation. An employee retiring after the 5-year period may receive credit for unused sick leave only if the employee is under the MWAA's formal leave system. |

Section 12A3.1-7 Employees of the Alaska Railroad

A. General Rule

Public Law 97-468 (enacted January 14, 1983) provided for the sale and transfer of the Alaska Railroad from the Federal government to non-Federal ownership by the State of Alaska. As part of the transfer provisions, employees covered by CSRS on the day preceding the date of transfer (January 5, 1985) continued CSRS coverage as long as they were continuously employed by the railroad. Individuals hired by the Alaska Railroad after the date of transfer are not Federal employees but employees of the State of Alaska.

NOTE: Since individuals who transferred to the Alaska Railroad on or after January 5, 1985, are no longer Federal employees, they were not eligible to elect FERS coverage.

**B. Employee
Deductions and
Agency
Contributions**

The Alaska Railroad Corporation (ARC) pays agency contributions and administrative expenses to the Civil Service Retirement and Disability Fund on behalf of the employees who retained CSRS coverage.

Section 12A3.1-8 Miscellaneous

**A. Employees of
Public Health
Service Hospitals**

Public Law 97-35 terminated Federal appropriations for Public Health Service hospitals effective October 1, 1981. The law provided that the hospitals could be transferred to State and local government or private control, become self-sufficient, or close. Certain employees, whose hospital transferred to non-Federal control and entered into an agreement with OPM, were eligible to continue CSRS coverage.

If the agency has questions about whether an employee was covered under such an agreement, direct questions through the agency employing office to the headquarters retirement counselor who may, as necessary, contact the agency's liaison at OPM.

**B. Employees
Subject to
Provisions of the
Panama Canal
Treaty**

Under Panama Canal Treaty and implementing agreements and legislation, the Panama Canal Act of 1979 (Public Law 96-70), the Panama Canal Company and the Canal Zone Government ceased to exist on September 30, 1979, and the Panama Canal Commission came into being on October 1, 1979, to operate and maintain the canal. Most other governmental activities were assumed by the Republic of Panama on that date.

1. Generally, both U.S. citizens and non-U.S. citizens who were working for the United States and covered by CSRS when the Treaty took effect on October 1, 1979, and then transferred without a break of 4 or more days to a position in the Commission, an Executive agency, or the Smithsonian Institution with a permanent duty station in the Republic of Panama, continued to be covered under CSRS. In addition, covered employees, including non-U.S. citizens appointed to a position in the Commission after a break in service but before April 1, 1980, were covered under CSRS.
2. Other non-U.S. citizens appointed to a position with the Panama Canal Commission or the Department of Defense in Panama are excluded from CSRS coverage and are covered by Panama's social security system.

NOTE: Non-U.S. citizens in Panama (non-resident aliens) are not eligible for coverage under FERS because such individuals are not eligible for U.S. Social Security coverage.

Section 12A3.1-8 Miscellaneous (Cont.)**C. Mike Mansfield
Fellows**

Section 252 of Public Law 103-236, approved April 30, 1994, created the Mike Mansfield Fellowship Program. Under this program, not more than 10 Federal employees from any branch of government may be selected by the Mike Mansfield Center for Pacific Affairs as Mike Mansfield Fellows. Fellows may be either detailed from their Federal positions, or separated with reemployment rights.

Detailed and separated employees have the same rights to continue their retirement, health insurance, and life insurance coverage as if they were serving with international organizations. See Section 12A3.1-4. They also have the same reemployment rights as if they were serving with international organizations.

Part 12A4 Non-Federal Employees Covered by CSRS (Other Than by Continuation of Coverage)**Section 12A4.1-1 Employees of the District of Columbia Government**

- A. Introduction** This part addresses non-Federal employees who have been given CSRS retirement coverage without the requirement of continuation of coverage from Federal employment. This first section describes the circumstances under which one such category of non-Federal employees--District of Columbia (D.C.) Government employees--may be covered under CSRS. It also provides instructions for making retirement coverage determinations for Federal employees who are hired after a period of employment with the D.C. Government.
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- B. D.C. Employees Excluded from CSRS Offset and FERS Coverage** Under no circumstances are D.C. Government employees eligible for CSRS Offset or FERS coverage.
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- C. First Employed by D.C. Government Before October 1, 1987** Prior to October 1, 1987, employees of the D.C. Government were eligible for coverage under CSRS. On October 1, 1987, CSRS became closed to D.C. Government employees unless they had been first employed by the D.C. Government in a position subject to CSRS prior to that date.
- NOTE 1: In general, CSRS was closed to new participants effective January 1, 1987. However, any eligible D.C. Government employee first hired before October 1, 1987, was covered under CSRS.
- NOTE 2: In contrast to Federal employees, D.C. Government employees first hired during the period from January 1, 1984, through September 30, 1987, were not covered by Social Security. Eligible employees had full CSRS coverage, not CSRS Interim or CSRS Offset coverage.
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Section 12A4.1-1 Employees of the District of Columbia Government (Cont.)**D. First Employed
by D.C.
Government On
or After
October 1, 1987**

Employees first hired by the D.C. Government, or first employed by D.C. Government in positions eligible for retirement coverage, on or after October 1, 1987, are covered by the retirement system established by the D.C. Government for its employees (including Social Security). (See paragraph E below for the sole exception to this rule.) This means that Federal employees with CSRS coverage who separate from Federal service and become employed by the D.C. Government, are not allowed to continue their CSRS coverage as D.C. Government employees unless they had CSRS-covered D.C. Government service before October 1, 1987. It also means that a CSRS retiree who is hired for the first time by the D.C. Government on or after October 1, 1987, cannot be covered by CSRS and cannot earn a CSRS supplemental or redetermined annuity based on that service.

**E. Employees of
St. Elizabeths
Hospital**

Public Law 98-621, enacted November 8, 1984, transferred the responsibility of St. Elizabeths Hospital from Federal authority to the D.C. Government on October 1, 1987. Under the normally applicable coverage rule in paragraph D above, transferred employees would be excluded from CSRS coverage since they were first employed by the D.C. Government on October 1, 1987, not before October 1, 1987. However, Public Law 100-238, enacted January 8, 1988, specified that an employee of St. Elizabeths Hospital at the time of the transfer to D.C. Government employment on October 1, 1987, would be treated in the same way as an individual first employed by the D.C. Government before October 1, 1987. Therefore, these employees are eligible for CSRS coverage as D.C. Government employees if they meet the following conditions:

- The individual must have been employed by St. Elizabeths Hospital subject to CSRS or FERS on September 30, 1987; and
- The individual must have become an employee of the District of Columbia on October 1, 1987, because of the transfer of St. Elizabeths Hospital from Federal authority to the District of Columbia Government.

Section 12A4.1-1 Employees of the District of Columbia Government (Cont.)

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|---|---|
| E. Employees of St. Elizabeths Hospital (Cont.) | NOTE: St. Elizabeths Hospital employees who were covered under FERS at the time of transfer could not continue FERS coverage. However, an employee of St. Elizabeths Hospital who had either CSRS or FERS coverage at the time of the transfer to District of Columbia employment on October 1, 1987, is eligible for CSRS coverage, beginning that date. Prior service subject to FERS may be credited in a CSRS annuity as service subject to another retirement system for Federal employees. (See Chapter 20, Creditable Service.) |
| F. Future FERS Coverage if Once Covered by FERS | If an individual had FERS coverage, then CSRS coverage as a District of Columbia employee, and then returned to a Federal career appointment, the employee would resume FERS coverage in the Federal position. In other words, once an employee has become subject to FERS, he or she resumes FERS coverage in future employment unless excluded from it under FERS rules. |
| G. Social Security Coverage of Former D.C. Employees | Under the 365-day break-in-service test for determining an employee's Social Security coverage, an employee with a break in CSRS-covered Federal service ending after 1983 and exceeding 365 days is mandatorily covered by Social Security. D.C. Government employment is not Federal service. Therefore, a former D.C. Government employee who was employed by the Federal government after 1983 for the first time is a "first hire" and is mandatorily covered by Social Security. Likewise, if an employee who was previously under CSRS was rehired by the Federal government after 1983 following an intervening period of D.C. Government service exceeding 365 days, the employee is mandatorily covered by Social Security. NOTE: Either a break in Federal service or a break in CSRS coverage can create a break in CSRS-covered Federal service. See section 10A1.3-6 in Chapter 10, Coverage. |

Section 12A4.1-1 Employees of the District of Columbia Government (Cont.)**H. Five-Year Test
for Determining
Former D.C.
Employee's
Retirement
Coverage**

If a former D.C. Government employee is hired by the Federal government after 1986--either as a first hire or a rehire--and is subject to mandatory Social Security coverage, the 5-year test will be used to determine whether FERS coverage is automatic. (See paragraph F of this section, for the exception concerning employees with prior FERS coverage.) D.C. Government service that is creditable under CSRS (see paragraph C) counts as service under the 5-year test. However, a move from D.C. Government employment to Federal employment is treated as a "break in service" for purposes of the 5-year test, regardless of the number of days between the two types of employment. Thus, if the employee has 5 years of creditable civilian service (including some CSRS covered service) at the time he or she moves from D.C. Government to a career Federal appointment, he or she is excluded from FERS and is covered under the CSRS Offset provisions. However, if the Federal appointment is excluded from CSRS coverage (such as a temporary appointment), the employee would have only Social Security coverage since the move is treated as if an actual break in service had occurred.

NOTE 1: The 5-year test is described in detail in section 10A1.1-2I of Chapter 10. Normally, how the rule is applied depends on whether the employee had a break in service lasting more than 3 days ending after December 31, 1986. If there was such a break, the 5-year test is applied as of the date of the last separation from service. If there was no break, the 5-year test is applied as of December 31, 1986. In the case of former D.C. Government employees who are hired by the Federal government and mandatorily covered by Social Security, the 5-year test is always applied as of the date of separation from CSRS-covered D.C. Government employment, regardless of whether there was a break between D.C. Government and Federal employment exceeding 3 days. In recognition of the fact that this group of CSRS-covered employees must be placed under Social Security coverage without an actual break in CSRS-covered service, this rule ensures that former D.C. Government employees with less than 5 years of CSRS service as of December 31, 1986, but more than 5 years as of their separation from D.C. Government employment, are able to continue CSRS coverage (under the Offset provisions) upon becoming Federal employees, even if there is no 3-day break.

Section 12A4.1-1 Employees of the District of Columbia Government (Cont.)

- H. Five-Year Test for Determining Former D.C. Employee's Retirement Coverage (Cont.)** NOTE 2: If the employee is a Federal rehire and had FERS coverage during a previous period of Federal service (including St. Elizabeths Hospital service before October 1, 1987), the 5-year test does not apply. FERS coverage is automatic unless the appointment is excluded from coverage, in which case the employee would have FICA only.
-
- I. Use of Chapter 10 Coverage Determination Tables** In using the coverage determination tables in Chapter 10, apply the 5-year test as described in paragraph H above. Use the "first hire" table for former D.C. Government employees with no prior Federal civilian service who are hired by the Federal government. Use the "rehire" table for former Federal employees who had an intervening period of D.C. Government employment. The "transfer or conversion" table is not used for employees moving directly from D.C. Government to the Federal government, even if the break is 3 days or less. Since D.C. Government employment is not Federal service, these employees can only be first hires or rehires. The fact that D.C. Government service is used in the 5-year test does not affect Social Security coverage or the characterization of an employee as a first hire, rehire, or transfer/conversion as those terms are used in Chapter 10.
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- J. Examples Involving Former D.C. Employees** **EXAMPLE 1: Former D.C. Employee Who is a First Hire**
- Alex was employed by the D.C. Government on September 10, 1982, and held a position that conferred CSRS coverage. He remained in that position until he resigned on March 16, 1990.
- Alex was appointed to a covered position with the Federal government on March 17, 1990. At that time, he was mandatorily covered by Social Security because he was first employed by the Federal government after 1983. He was placed under CSRS Offset because he had at least 5 years of CSRS-covered service with the District of Columbia at the time he moved into Federal employment.

Section 12A4.1-1 Employees of the District of Columbia Government (Cont.)**J. Examples
Involving Former
D.C. Employees
(Cont.)****EXAMPLE 2: Former D.C. Employee Who is a Rehire**

Bruce was appointed to a covered position in the Federal government on January 1, 1979. He remained in that position until he separated on December 31, 1981. Bruce subsequently took a position with District of Columbia Government on January 2, 1983, and stayed in that position until December 31, 1986. On January 2, 1991, Bruce is reemployed in the Federal government.

Bruce is covered by Social Security because his break in Federal service exceeded 365 days. He is under CSRS Offset because he had at least 5 years of creditable service and prior CSRS coverage before his Federal employment on January 2, 1991 (3 years of Federal service plus 4 years of service with the District of Columbia).

Section 12A4.1-2 Other Non-Federal Employees

A. General Rules

1. Other non-Federal employees who have been given CSRS coverage include employees of the:
 - Appalachian Regional Commission (Public Law 89-4, enacted March 9, 1965);
 - Legal Services Corporation (Public Law 93-355, enacted July 25, 1974);
 - State Justice Institute (Public Law 98-620, enacted November 8, 1984);
 - American Institute in Taiwan (22 U.S.C. 3310); and
 - Gallaudet University (5 U.S.C. 8331(1)).
2. Section 8347(o) of title 5, U.S. Code (enacted by Public Law 100-238) provided that any provision of law outside the CSRS law (Subchapter III of chapter 83 of title 5, U.S. Code) that gave CSRS coverage to any individuals who (based on their being employed by an entity other than the Federal government, the District of Columbia Government, or Gallaudet University) would not otherwise be considered a Federal employee for retirement purposes would not apply to anyone appointed, transferred, or otherwise beginning that type of employment on or after October 1, 1988.

This meant that, except for employees of Gallaudet University (who are specifically included in the definition of "employee" by the retirement law (5 U.S.C. 8331(1)), people first hired by the entities in (1) above on or after October 1, 1988, could not have CSRS coverage. However, further legislation covering the State Justice Institute again gave its employees retirement coverage. (See Paragraph B below.)
3. Public Law 89-4, enacted March 9, 1965, established the Appalachian Regional Commission to coordinate action between the Federal government and the States within the region to promote their economic development. Under the provisions of the Act, the Federal co-chairman, his or her alternate, and the staff are Federal employees for retirement purposes. Coverage is available on an elective basis to employees appointed to the Commission within 3 days after separation from Federal service.

Section 12A4.1-2 Other Non-Federal Employees (Cont.)**A. General Rules
(Cont.)**

4. Except for employees who are continuing coverage during non-Government service (see Part 12A3), employees of the State Justice Institute (see paragraph B), and employees of the Senate Employee Child Care Center (see paragraph C) do not have FERS coverage and cannot elect FERS, because they do not meet the definition of an employee under the FERS law (5 U.S.C. 8401(11)).
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**B. Exception:
Employees of the
State Justice
Institute**

1. Employees of the State Justice Institute hired before October 1, 1988, were covered by CSRS and remain so covered as long as their uninterrupted employment continues. Employees hired or rehired by the State Justice Institute on or after October 1, 1988, are excluded from CSRS coverage. (See 5 U.S.C. 8347(o).)
2. Effective November 18, 1988, Public Law 100-690 amended the State Justice Institute Act to provide that officers and employees of the Institute would be considered employees for retirement purposes under FERS.

Thus, employees of the State Justice Institute who were hired by the State Justice Institute on or after November 18, 1988, are covered under FERS (or Social Security only if the appointment is temporary or intermittent).

3. Following the enactment of Public Law 100-690 (effective November 18, 1988), employees of the State Justice Institute who were employed by the Institute before October 1, 1988, had a 6-month period in which to elect FERS coverage.
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Section 12A4.1-2 Other Non-Federal Employees (Cont.)

- C. Exception:**
Employees of the
Senate Employee
Child Care
Center
1. Public Law 102-392 (approved October 6, 1992) allows Senate Employee Child Care Center employees (Center employees are not Federal employees) to elect FERS coverage. Center employees are not allowed to be covered by CSRS. Center employment is not creditable for any purpose unless the employee makes the FERS election and, for pre-election employment at the Center, the deposit described below.
 2. To qualify to make a FERS election a Center employee must --
 - Have been employed by the Center on October 6, 1992, and file the election with the Secretary of the Senate no later than 60 days thereafter; or
 - Be hired by the Center after October 6, 1992, and file the election within 60 days after beginning Center employment.
 3. Public Law 102-392 provides that employees who make the election of FERS and who had service with the Center before enactment may make a FERS deposit for that service. Upon payment of the deposit this past Center employment will be treated as Congressional employee service for FERS purposes. The law requires OPM to accept the certification of the Secretary of the Senate concerning creditable service with the Center.
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Section 12A4.1-2 Other Non-Federal Employees (Cont.)**D. Determining
Coverage Upon
Movement to a
Federal Agency**

Apply the rules outlined in 12A4.1-1, paragraphs F and G, to determine whether a person is subject to Social Security when hired into a Federal position after service in one of the non-Federal entities listed in paragraph A, above. Like the D.C. Government, while service in these entities may provide Federal retirement benefits, they are not considered to be Federal for purposes of determining whether there has been a 366-day break in CSRS-covered Federal service.

EXCEPTION: Even though the American Institute of Taiwan is not a Federal agency, service in the American Institute of Taiwan is not considered to be a break in service for purposes of the 365-day break rule to determine whether an individual is subject to Social Security coverage upon reemployment by the Federal government.

The employee meets the 5-year test if he or she had 5 years or more of creditable civilian service as of the date of the last separation from the non-Federal employment, **and** some previous CSRS or Foreign Service Retirement System coverage. The break-in-service version of the 5-year test is used even if there is no gap in service between the non-Federal entities and Federal employment, just as it is in moves from D.C. Government to Federal employment.

Part 12A5 Miscellaneous Coverage Rules**Section 12A5.1-1 National Guard Technicians**

A. General Rule

Before January 1, 1969, National Guard technicians, except technicians of the District of Columbia, were usually considered State employees. Effective January 1, 1969, Public Law 90-486 (approved August 13, 1968) authorized State Adjutants General to appoint National Guard technicians as employees of the United States Army or Air Force and to convert to Federal employee status all National Guard technicians employed as such on December 31, 1968, who did not irrevocably elect to remain covered by the State retirement system.

NOTE: For technicians who elected to remain under the State retirement system, service after January 1, 1969, is neither "covered" nor creditable for CSRS or FERS purposes. However, Chapter 20 describes how individuals can obtain credit for technician service prior to January 1, 1969.

Since January 1, 1969, all technicians appointed in a position not excluded from coverage to perform service under section 709 of title 32, U.S. Code, are considered Federal employees and are automatically covered by CSRS or FERS. (See Chapter 22, Creditable Military Service, for a discussion of National Guard service creditable as military service.)

**Section 12A5.1-2 Contract Personnel at Department
of Defense (DOD) Dependents' Schools**

A. General

Individuals hired under a personal services contract before January 17, 1987, to teach or perform other services at Department of Defense Dependents' Schools were generally considered appointed to a Federal position. As a result, they were covered by either CSRS or FERS and the service was creditable for retirement purposes.

However, the judicial interpretation of the definition of "employee" in *Horner v. Acosta* (a case involving personal service contracts generally) now requires a formal appointment to be made for CSRS/FERS coverage to continue. In the settlement of the case of *Hess v. Marsh* (involving DOD Dependents' Schools specifically), which was entered on January 16, 1987, DOD agreed to provide appointments for all of its current Dependents' Schools contract personnel.

B. Rules

1. Individuals hired under a personal services contract on or after January 17, 1987, are not covered by either CSRS or FERS and do not receive retirement credit for the contract service unless they have a simultaneous appointment as a Federal employee.
 2. If the Dependents' School employee was hired before January 17, 1987, and he or she was:
 - Covered by CSRS or FERS on that date; and
 - The personal services contract was converted to an "appointment" on an SF 50 or equivalent form per the settlement in *Hess v. Marsh*,the individual retains CSRS or FERS coverage and all prior contract service with the Dependents' Schools is creditable for retirement purposes.
 3. The settlement in the case of *Hess v. Marsh* also provided that contract employees of Army Dependents' Schools who were covered by CSRS or FERS and who separated prior to settlement would receive credit for covered service without being "converted" by an SF 50.
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Section 12A5.1-3 Foreign National Employees With J-1 Visas

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| A. General | Certain scientists, physicians, and other professionals from other countries are employed by Federal agencies under J-1 visas. J-1 visas are visas authorized for certain non-immigrant aliens. |
| | Employees with J-1 visas are specifically excluded in Social Security law from Social Security coverage. However, if these individuals were employed prior to January 1, 1987, they were not excluded from CSRS coverage. |
| B. Appointments Between January 1, 1984, and December 31, 1986 | Under Public Law 98-168, the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (enacted November 29, 1983), the CSRS contribution rate for Federal employees who were covered by Social Security was adjusted to 1.3 percent of pay. However, since this legislation affected the amount of the employee CSRS contribution, but not the CSRS coverage rules themselves, it had no effect on J-1 visa holders. They continued under CSRS-only coverage and paid 7 percent deductions. |
| C. Appointments On or After January 1, 1987 | <ol style="list-style-type: none"> 1. The FERS definition of employee in 5 U.S.C. 8401(11) requires that an individual have Social Security coverage. Since J-1 visa holders are excluded from Social Security, they are ineligible for FERS coverage. 2. When FERS came into being, the CSRS became a closed system that is not open to newly hired Federal employees. Therefore, J-1 visa holders who were first hired or converted to non-temporary appointments on or after January 1, 1987, are excluded from CSRS coverage. |
| D. Change in Visa Status | If the visa status of a J-1 visa holder changes (for example, to an immigrant visa) and the employee becomes covered by Social Security as a result, the employee is then converted to either CSRS Offset or FERS coverage under regular coverage rules if he or she has an appointment that conveys retirement coverage. If the employee becomes covered by CSRS Offset, he or she has a 6-month opportunity to join FERS. |
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Section 12A5.1-4 Portability of Benefits for Nonappropriated Fund Employees

A. General

Certain employees of the Department of Defense (DOD) and U.S. Coast Guard may retain their retirement coverage when they move from a position under a nonappropriated fund (NAF) retirement system to one under CSRS or FERS and vice versa. (The "Portability of Benefits for Nonappropriated Fund Employees Act of 1990," Section 7202 of Public Law 101-508.)

B. Rule

The first time after December 31, 1986, that an employee moves from a position covered by an NAF retirement plan to a position covered by CSRS or FERS and vice versa, the employee may make an irrevocable election to **retain coverage** under the applicable retirement plan provided the following conditions are met:

- If the employee is covered by an NAF retirement plan, he or she is a vested participant; or, if the employee is covered by CSRS or FERS, he or she performed 5 years of civilian service creditable under CSRS or FERS; and
- The employee moves from one position to another within DOD or from one position to another within the Coast Guard. (The election right does not apply to a move from DOD or Coast Guard to another agency nor does it apply to a move from DOD to the Coast Guard or vice versa.); and
- The employee makes the election within 30 days after the move.

An employee who elects to retain NAF retirement keeps that coverage upon moving to another agency outside of DOD or Coast Guard. For example, if a DOD employee who previously elected to retain coverage under an NAF plan transfers to the Commerce Department, the official personnel folder of an employee who elects to retain NAF coverage will be specially marked and have an office to contact in DOD for information about the NAF plan.

>Note: The information in this section has not been updated to reflect the changes in the portability rules with the passage of Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996, on February 10, 1996. Section 1043 of Public Law 104-106 expands the authorities in current law and allows additional retirement credit opportunities under certain conditions for employees who moved between NAF and civil service positions after December 31, 1965. These provisions took effect on August 10, 1996, following the publication of interim regulations in the Federal Register to implement the provisions. See Benefits Administration Letter 96-xxx, dated August xx, 1996, for more information about these changes. You can download the regulations and letter from OPM's Mainstreet computer bulletin board by following the instructions in Chapter 1.<

Section 12A5.1-4 Portability of Benefits for Nonappropriated Fund Employees (Cont.)**C. Exception**

There are two exceptions to the 30-day time limit for making an election:

1. The time limit for making an election is May 6, 1991, for employees whose election opportunity under the 30-day time limit would ordinarily expire before that date; and
2. Employees who exercise due diligence but are prevented by circumstances beyond their control from making a timely election may request an exception from their employing agency. DOD and Coast Guard will make the decision whether to allow the employee to make the election.

D. Example:

Barbara, a Coast Guard employee, has performed 5 years of creditable civilian service under FERS. She moves to a position with the Coast Guard that would normally be covered by the NAF retirement plan effective June 4, 1994. Barbara has a one-time opportunity to elect to retain coverage under FERS by July 5, 1994. (Since the 30th day falls on a holiday, the election must be made by the close of business on the next day that does not fall on a Saturday, Sunday, or legal holiday.)

If Barbara makes a timely election to continue FERS coverage, she may never acquire service credit under a retirement system for NAF employees and she will not have another election right. All future service she performs in NAF or civil service positions that are not excluded from FERS coverage (such as service under temporary or intermittent appointments) will earn FERS credit.

If Barbara does not elect to continue FERS coverage, she would begin coverage under the retirement system for NAF employees. She will not have another opportunity to elect to retain FERS coverage for periods of NAF employment. If she continues subject to the NAF retirement system long enough to become vested in that system, and thereafter moves to a civil service position with the Coast Guard, she will have a one-time opportunity to elect to remain under the retirement system for NAF employees. If Barbara elects to remain under the NAF retirement plan, all of her future service in NAF or civil service positions that are not excluded from retirement coverage will be subject to the NAF retirement plan.

If, upon moving to the Coast Guard, Barbara does not elect to retain coverage under the NAF retirement plan, for all future service, she will be covered by the retirement system that normally covers her position as though the Portability of Benefits for Nonappropriated Fund Employees Act of 1990 had not been enacted.

Section 12A5.1-5 Senior Biomedical Research Service

A. General

Section 304 of Public Law 101-509 (November 5, 1990) establishes a Senior Biomedical Research Service (SBRS) in the Public Health Service of the Department of Health and Human Services. An SBRS member who was employed by an institution of higher education immediately prior to the SBRS appointment and who retains the right to continue to make contributions to the retirement system of such institution, may request the Secretary of Health and Human Services to authorize agency contributions, not to exceed 10 percent of basic pay, to that institution's retirement system. If such a request is approved, the SBRS member will not be covered by CSRS or FERS, nor will he or she be eligible to have the service credited under CSRS or FERS under any circumstances.

Section 12A5.1-6 Employees With Service Under Other Retirement Systems

**A. General Rules for
Determining
Coverage**

1. As with other employees who transfer from one agency to another or who are reemployed after a break in service, making coverage determinations for employees whose last service was under another retirement system for Federal employees requires the gaining agency to first determine whether the employee is excluded from automatic Social Security coverage by the Social Security law. If an employee is subject to automatic Social Security coverage, the 5-year test must be applied to determine the proper retirement coverage. (See Chapter 10.)
 2. The Internal Revenue Service has advised OPM that a Federal employee without Social Security coverage who moves from another retirement system for Federal employees (such as the Foreign Service Retirement System) continues to be excluded from automatic Social Security coverage unless he or she has a 366-day break in service under a retirement system for Federal employees. This means that, by virtue of having been covered by a system like CSRS (without concurrent Social Security coverage), an employee who has no previous CSRS coverage may acquire CSRS coverage.
 3. The Internal Revenue Service has also advised OPM that if a former Federal employee receiving an annuity under another retirement system for Federal employees becomes reemployed in a position subject to CSRS, the Social Security law continues to exempt the individual from automatic Social Security coverage. However, this exemption from Social Security coverage does not apply if the retiree was also subject to Social Security when he or she retired under that retirement system, or if the retiree is employed in a position excluded from CSRS coverage, such as a temporary, term, or intermittent.
 4. See paragraphs D and E, below, for special rules that apply to service under the District of Columbia's Police and Firefighters' Retirement and Disability System.
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Section 12A5.1-6 Employees With Service Under Other Retirement Systems (Cont.)

- | | |
|--|---|
| B. Creditability of Service for the 5-Year Test | Service performed under another retirement system for Federal employees is creditable under the 5-year test if it can be used to establish entitlement to a CSRS annuity. In counting service to determine if an employee meets the 5-year test, include service potentially creditable under CSRS rules. Service is potentially creditable if the employee can waive benefits under the other system--such as under the Foreign Service Retirement System, the Tennessee Valley Authority Retirement System, the Central Intelligence Agency Retirement and Disability System, and the Retirement System of the Board of Governors of the Federal Reserve Board--and make a deposit to the CSRS to obtain credit. (See Chapter 20, Creditable Service, and Chapter 21, Service Credit Payments for Civilian Service.) |
| C. Post-1989 Service | Service performed after 1989 under another retirement system for Federal employees is not creditable under FERS rules. The only exception is service creditable under the Foreign Service Pension System. |
| D. Service Covered by the D.C. Police and Firefighters' System--Not Retired | <ol style="list-style-type: none">1. Some Federal employees, such as certain Secret Service and U.S. Park Police employees, are covered by the District of Columbia's Police and Firefighters' Retirement and Disability System. Therefore, if an employee was covered by the D.C. System in his or her last appointment it is necessary to distinguish between Federal and municipal service to determine whether the employee is subject to Social Security coverage.2. Service in a municipal capacity (for example, as a D.C. police officer) is not Federal service. Therefore, if an individual has had prior Federal service followed by municipal service, the municipal service is considered to be a break in service for purposes of the 365-day-break rule for determining Social Security coverage upon moving to a Federal agency. If the individual is now being rehired into a Federal position, he or she will be subject to Social Security unless he or she had Federal service excluded from Social Security coverage within 365 days before re-entering Federal service. If subject to Social Security, the 5-year test must be applied to determine whether CSRS Offset or FERS coverage is appropriate. (See EXAMPLE 3 in paragraph F.) |

Section 12A5.1-6 Employees With Service Under Other Retirement Systems (Cont.)**D. Service Covered
by the D.C. Police
and Firefighters'
System--Not
Retired (Cont.)**

3. If a Federal employee, such as a member of the Uniformed Division of the Secret Service or U.S. Park Police, moves from the D.C. System coverage, in which he or she is not subject to Social Security, to a position eligible for CSRS coverage, he or she continues to be exempt from automatic Social Security coverage unless the break is more than 365 days. If exempt from Social Security, such an employee obtains CSRS coverage. If such an employee becomes subject to Social Security due to a 366-day break, or due to employment in a position not eligible for CSRS coverage, such as a temporary appointment, the 5-year test is applied. (See example 4 in paragraph F, below.) If the Federal employee was subject to combined Social Security and D.C. System coverage, he or she would not be exempt from Social Security coverage in later service for the Federal government.
 4. Service under the D.C. System is potentially creditable under CSRS rules if the employee has not retired and if D.C. System benefits are waived and a deposit to the CSRS fund is made--regardless of whether the service was performed as a municipal or Federal employee. However, the D.C. System does not permit its retirees to terminate their entitlement to benefits so that the time can be counted toward a civil service retirement. Therefore, D.C. System service is potentially creditable service for purposes of the 5-year test only if the employee is not yet retired under the D.C. System.
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Section 12A5.1-6 Employees With Service Under Other Retirement Systems (Cont.)**E. Retirees from the D.C. Police and Firefighters' System**

1. A Federal employee (such as certain Secret Service and U.S. Park Police employees) who has retired under the District of Columbia's Police and Firefighters' Retirement and Disability System is considered to be receiving an annuity under a retirement system for Federal employees. Therefore, except as provided below and in the next paragraph, these Federal retirees are excluded from Social Security coverage in later Federal employment subject to CSRS coverage. These retirees may acquire Social Security coverage by electing FERS. If appointed to a temporary or intermittent position, which is excluded from CSRS and FERS coverage, Social Security coverage is applicable and the employee is subject to FICA only. If such a retiree is appointed to a kind of appointment excluded from CSRS coverage, but not excluded from FERS coverage (such as a TAPER or term appointment), then the retiree will be covered by Social Security and the 5-year test must be applied to determine whether the employee is grandfathered out of automatic FERS coverage. Note, however, that the employee's service included in the D.C. System benefit is not potentially creditable for 5-year test purposes, because that benefit cannot be waived.
 2. Some pre-1984 Federal employees covered by the D.C. System have combined coverage with Social Security because they became subject to Social Security under the general rules applicable to Federal employees, usually because of a 366-day break in service. When these Federal employees retire under the D.C. System, they receive benefits that are offset for Social Security benefits, like CSRS Offset retirees. If these employees return to Federal employment after retiring under the D.C. System, they will be subject to Social Security, despite their continuing receipt of the D.C. System benefit. If hired into a position subject to CSRS coverage, or excluded from CSRS coverage but eligible for FERS coverage, the 5-year test must be applied (again, excluding credit for service included in the D.C. System benefit).
 3. D.C. municipal employees who retire under the D.C. System, and who then move to Federal employment are treated like other former D.C. employees who move into Federal employment, except that they cannot receive credit, potential or otherwise, for the service included in the D.C. System benefit. Receipt of the D.C. System benefit does not exclude them from Social Security, because, in relation to municipal employees, the D.C. System is a non-Federal retirement system.
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Section 12A5.1-6 Employees With Service Under Other Retirement Systems (Cont.)**F. Examples**

EXAMPLE 1: Lisa was employed under the Federal Reserve's retirement plan for Federal employees from 1978 to March 15, 1994. During the entire period she was excluded from Social Security. On May 1, 1994, she received a career appointment with the Department of the Treasury.

Lisa is covered by CSRS (even though she has no prior CSRS coverage) because she is excluded from Social Security, having been continuously (without a 366-day break) excluded from Social Security since before 1984 by virtue of her coverage under a retirement system for Federal employees.

Lisa's service under the Federal Reserve System is potentially creditable service if she waives credit for it under the Federal Reserve System and makes a deposit to OPM.

(If Lisa had not been reemployed until after a 366-day break, she would have acquired Social Security coverage upon reemployment. Because she has no prior service covered under CSRS, she would not meet the 5-year test and she would be placed under FERS.)

EXAMPLE 2: John was employed by the Tennessee Valley Authority (TVA) from 1971 to 1994, when he transferred without a break in service to the Army Corps of Engineers. Since Social Security is a part of the TVA's retirement plan, John continues to be covered by Social Security. Since John had more than 5 years of potentially creditable civilian service as of December 31, 1986, and no break in service after December 31, 1986, he is covered by CSRS Offset and has a 6-month opportunity to elect FERS. If he had had a break in service of 4 or more days after December 31, 1986, he would have automatically been covered by FERS and all his service would be creditable under FERS rules.

EXAMPLE 3: Frank was a D.C. police officer who was covered by the D.C. Police and Firefighters' Retirement and Disability System from June 1, 1983, until June 30, 1988, when he resigned. On July 1, 1988, Frank was hired by the Securities and Exchange Commission (SEC).

Frank is covered by FERS because he is subject to automatic Social Security coverage (in his first Federal appointment) and because he does not satisfy the 5-year test (having no prior service subject to CSRS or the Foreign Service Retirement System). Because Frank did not retire under the D.C. System, the service is potentially creditable under FERS if Frank waives credit under the D.C. System and makes a deposit to OPM.

Section 12A5.1-6 Employees With Service Under Other Retirement Systems (Cont.)

F. Examples: (Cont.) **EXAMPLE 4:** Tracy retired in 1989 under the D.C. Police and Firefighters' Retirement and Disability System after 25 years with the Secret Service (that is, she was a Federal employee). Tracy was employed in a permanent position in 1990 by the Defense Logistics Agency.

Tracy is covered by CSRS. She is excluded from Social Security because she is a Federal retiree under the D.C. System and the annuity is continuing during Federal employment in a position subject to CSRS coverage. If Tracy were hired at the Defense Logistics Agency in a position excluded from CSRS coverage, such as a temporary appointment, she would be covered by FICA only. If Tracy were hired under a term appointment (excluded from CSRS coverage, but not under FERS rules), she would be covered automatically by FERS, unless she had at least 5 years of creditable civilian service not included in the D.C. System benefit.

Subchapter 12B Job Aids**Section 12B1.1-1 Copies of Job Aids**

| Job Aids | Descriptions |
|---|---|
| <ul style="list-style-type: none">• Procedures for documenting continuation of retirement coverage for individuals | The job aid includes procedures to be followed by agencies in documenting an employee's right to continue coverage for the duration of an assignment or transfer to a non-Federal organization. |
| <ul style="list-style-type: none">• List of International Organizations | List of International Organizations Within the Meaning of the Federal Employees International Organization Service Act. |

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Section 12B1.1-1 Copies of Job Aids (Cont.)**Job Aid #1 Documentation of and Advice for Federal Employees Serving in
Non-Federal Organizations****Procedures for Documenting Continuation of Retirement Coverage for Individuals --**

- In a leave-without-pay status to serve in an employee organization;
- In a leave-without-pay status while assigned to a State or local government, institution of higher learning, or other nonprofit organization; or
- Transferred to an international organization with the consent of the employing agency.

Employing agencies must --

- Advise the employee of his or her right to continue retirement coverage (and other benefits, as applicable) for the duration of the assignment or transfer;
- Explain, in writing, the conditions for continued coverage and the employee's obligations and responsibilities with regard to continued coverage;
- Give the employee two copies of the election notice and have him or her sign and return one copy to the agency;
- File the employee's election on the right hand side of the Official Personnel Folder (OPF); and
- Collect, deposit, and account for the applicable retirement payments to OPM.

NOTE 1: Even if the employee does not sign and return the election, agencies should file a copy of the form in the employee's OPF with the dated notation that the employee did not return the form.

Section 12B1.1-1 Copies of Job Aids (Cont.)**Job Aid #1 Documentation of and Advice for Federal Employees Serving in
Non-Federal Organizations (Cont.)****Procedures for Documenting Continuation of Retirement Coverage for Individuals (Cont.) --**

NOTE 2: Payments are considered currently deposited if received by the agency within 3 months of the end of the pay period for which payments are due. Failure to deposit the payments currently will terminate full retirement credit, on the last day of the pay period for which payments were currently deposited. Unless OPM determines there was an administrative error or other circumstances beyond the control of the employee, once terminated, coverage will not begin again until the employee actually enters on duty in a pay status (begins actual work for which he or she is paid) in a Federal agency, in a position not excluded from coverage.

NOTE 3: OPM has prepared a form for continuation of coverage applicable to employees who wish to continue coverage during employment with an Indian tribal organization (see 12A3.1-5), RI 38-130, titled "Retirement, Life Insurance, and Health Benefits Under the Indian Self-Determination and Education Assistance Act--Public Law 93-638" (formerly Standard Form 2816).

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Section 12B1.1-1 Copies of Job Aids (Cont.)**Job Aid #2 List of International Organizations Within the Meaning of the Federal Employees
International Organization Service Act***United Nations and Organs, and Special Programs of
the United States*

United Nations (UN)
 UN Capital Development Fund
 UN Center for Human Settlements (Habitat)
 UN Children's Fund (UNICEF)
 UN Development Program (UNDP)
 UN Development Fund for Women
 UN Environmental Program (UNEP)
 UN Fund for Drug Abuse Control (UNFDAC)
 UN High Commissioner for Refugees (UNHCR)
 UN Relief and Works Agency for Palestine Refugees in
 the Near East (UNRWA)
 UN Volunteers
 International Research and Training Institute for the
 Advancement of Women (INSTRAW)

NOTE:

Because the UN qualifies as an international organization in which the United States Government participates within the meaning of Public Law 89-554 as amended, organs and special programs of the UN usually also qualify under the statute as well. The above list, therefore, is meant to be illustrative, not exhaustive. Questions as to whether other organs or special programs of the UN not on the above list qualify under the statute should be addressed to the Office of Personnel Management, which will make the necessary determination after consultation with the Department of State.

Specialized Agencies of the United Nations

Food and Agriculture Organizations (FAO)
 International Civil Aviation Organization (ICAO)
 International Fund for Agriculture Development
 (IFAD)
 International Labor Organization (ILO)
 International Maritime Organization (IMO)
 International Telecommunication Union (ITU)
 UN Industrial Development Organization (UNIDO)
 Universal Postal Union (UPU)
 World Health Organization (WHO)
 International Agency for Research in Cancer (IARC)
 World Intellectual Property Organization (WIPO)
 World Meteorological Organization (WMO)

Inter-American Organizations

Inter-American Center of Tax Administrators (CIAT)
 Inter-American Development Bank
 Inter-American Indian Institute
 Inter-American Institute for Cooperation in Agriculture
 (IICA)
 Inter-American Tropical Tuna Commission
 Organization of American States (OAS)
 Pan American Health Organization (PAHO)
 Pan American Institute of Geography and History
 Pan American Railway Congress Association
 Postal Union of the Americas and Spain

Other Regional Organizations

Colombo Plan Council for Technical Cooperation in
 South and Southeast Asia
 Great Lakes Fisheries Commission
 North Atlantic Assembly
 North Atlantic Treaty Organization (NATO)
 South Pacific Commission

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Section 12B1.1-1 Copies of Job Aids (Cont.)**Job Aid #2 List of International Organizations (Cont.)***Other International Organizations*

| | |
|--|---|
| African Development Bank | International Hydrographic Bureau |
| Asian Development Bank | International Institute for Cotton |
| Bank for International Settlements (BIS) | International Institute for the Unification of Private Law |
| The Center for International Forestry Research (CIFOR) | International Monetary Fund (IMF) |
| Commission for the Conservation of Antarctic Marine Living Resources | International North Pacific Fisheries Commission |
| Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) | International Organization for Legal Metrology |
| Customs Cooperation Council (CCC) | International Organization for Migration (IOM) |
| European Bank of Reconstruction and Development (EBRD) | International Organization of Supreme Audit Institutions |
| Fund for the Protection of the World Cultural and Natural Heritage (World Heritage Fund) | International Rubber Study Group |
| The Hague Conference on Private International Law | International Secretariat for Volunteer Service |
| Interim Commission of the International Trade Organization/General Agreement on Tariffs and Trade (ICITO/GATT) | International Seed Testing Association |
| International Agreement on the Maintenance of Certain Lights in the Red Sea | International Service for National Agriculture Research (ISNAR) |
| International Atomic Energy Agency (IAEA) | International Sugar Council |
| International Bureau for the Permanent Court of Arbitration | International Tropical Timber Organization (ITTO) |
| International Bureau for the Protection of Industrial Property | International Whaling Commission |
| International Bureau for the Publication of Custom Tariffs | International Wheat Council |
| International Bureau of Weights and Measures | Interparliamentary Union |
| International Center for Agricultural Research in the Dry Areas (ICARDA) | Iran-United States Claims Tribunal |
| International Center for the Study of the Preservation and Restoration of Cultural Property (ICCROM) | Multinational Force and Observers (MFO) |
| International Coffee Organization | Organization for Economic Cooperation and Development (OECD) |
| International Cotton Advisory Committee | Permanent International Association of Navigation Congresses |
| International Council for the Exploration of the Sea (ICES) | World Bank Group |
| International Council of Scientific Unions and Associate Unions | International Bank for Reconstruction and Development (IBRD) |
| International Criminal Police Organization (INTERPOL) | International Finance Corporation (IFC) |
| International Crops Research Institute for the Semi-arid Tropics (ICRISAT) | Multilateral Investment Guarantee Agency (MIGA) |
| International Development Law Institute (IDLI) | World Tourism Organization |
| International Fertilizer Development Center | |

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Section 12B1.1-1 Copies of Job Aids (Cont.)**Job Aid #2 List of International Organizations (Cont.)****NOTES**

- (1) The preceding list contains the names of a number of small and highly specialized international bodies which do not maintain normal secretariats and are not expected to require the full-time services of Federal personnel. They have been included on the list because they may request the short-term detail of a Federal employee and they do qualify as international organizations under Public Law 85-795.
- (2) While the U.S. Government participates in other international organizations not listed here, the degree of participation may not be enough to meet the statutory standard. Therefore, if a detail or transfer is contemplated, the status of these organizations must be considered on a case-by-case basis.
- (3) This list does not include SEATO. Although it qualifies as an international organization, assignments of Federal personnel are coordinated by the Department of State and are made under statutory authority other than Public Law 85-795.
- (4) Requests as to whether an organization not on the present list may qualify should be addressed to OPM, which will consult with the Department of State on that determination.

Information from Reemployment Rights office, dated March 1995.

Section 12B1.1-2 Copy(ies) of Form(s) For Local Reproduction

RI 38-130, Retirement, Life Insurance, and Health Benefits under the Indian Self-Determination and Educational Assistance Act-Public Law 93-638, (formerly Standard Form 2816)

Chapter 12

| | |
|---|---|
| Retirement, Life Insurance, and Health Benefits under the Indian Self-Determination and Educational Assistance Act-Public Law 93-638 | |
| 1 Instructions for completing form: • Read the instructions on the back carefully before filling out form. • Be sure ALL COPIES of the form are legible. Type or print in ink. • Keep all four (4) copies of the form together. | |
| 2 Fill in the Identifying Information Below (Please print or type): | |
| Name (Last) (First) (Middle) | Date of Birth (Mo., Day, Yr.) Social Security No. |
| Employing Department or Agency | Agency Location (City, State, Zip Code, and Fax No.) |
| Have you ever before filed this Form? ____ Yes ____ No If "Yes," do not file this form again, your last form remains in effect. | |
| 3 By law, a person who elects to leave Federal employment to be employed by a tribal organization in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if the employee and the tribal organization so elect, to retain certain benefits. IMPORTANT: Election of coverage must be made prior to employment by tribal organization and documented on this form prior to the effective date of the employee's resignation. Failure to file this form will result in the loss of retirement, life insurance, health benefits coverage, and continuation of the Thrift Savings Plan. | |
| Employee Elections -- Mark an "X" by the benefits you wish to retain: ____ A. Retirement ____ CSRS ____ FERS ____ B. Health Insurance ____ C. Basic Life Insurance ____ D. Option A--Standard Life Insurance ____ E. Option B--Additional Life Insurance with the following multiples of pay: ____ 1 ____ 2 ____ 3 ____ 4 ____ 5 ____ F. Option C--Family Life Insurance ____ G. Thrift Savings Plan (must retain retirement coverage) ____ H. No Benefits at All | Tribal Organization -- Mark an "X" by the benefits for which you wish to make a contribution. ____ I. Retirement ____ CSRS ____ FERS ____ J. Health Insurance ____ K. Life Insurance ____ L. Thrift Savings Plan ____ M. No Benefits at All |
| 4 Employee must sign and date, and then have the tribal organization complete its sections. Return the entire set of four forms to the employing office along with a transmittal memorandum. | |
| Employee's Signature (Do not print) | Signature of Authorized Tribal Official |
| Date | Title and Name of Organization |
| FOR USE OF FEDERAL AGENCY ONLY | |
| (Official Receiving Date Stamp) | Address |
| | Telephone Number (including area code) |
| | Date |

Chapter 12

General Information

The major provisions of this program are described in the Indian Self-Determination and Educational Assistance Act of 1975, Public Law 93-638.

Who must file this form:

- an employee serving under an appointment not limited to one year or less who leaves Federal employment to be employed by a tribal organization in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if the employee and the

tribal organization so elect, to retain or not retain Office of Personnel Management retirement, life insurance, and health benefits under the Indian Self-Determination and Educational Assistance Act.

UNDER THE LAW, THE EMPLOYEE AND TRIBAL ORGANIZATION MUST BOTH ELECT TO HAVE THE BENEFITS CONTINUED IN ORDER FOR THE EMPLOYEE TO RETAIN THE BENEFITS. ONCE AN ELECTION IS MADE NOT TO CONTINUE ONE OR MORE BENEFITS THE DECISION IS IRREVOCABLE.

Instructions to Employing Agencies

1. **Give the employee 4 copies of RI 38-130** when he or she gives notification of employment by a tribal organization. Remind the employee that the 4 completed copies of RI 38-130 must be returned before leaving federal employment.
2. **If an employee does not promptly return the RI 38-130** urge that it be returned even if he or she does not elect to retain civil service benefits. If the RI 38-130 is still not returned before employment with a tribal organization (or after becoming eligible) file one for the employee as of that date; mark box H, and note in the space provided for the employee's signature "employee contacted on (date)--failed to elect to retain benefits."
3. **Review all copies of the RI 38-130** to see that they are legible, complete, and correct. If employee marks box H, find out if it is by intention or by error.
4. **Stamp date of receipt by the employing office** in the space provided on all copies.
5. **Disposition of RI 38-130--** (1) File the original in the personnel folder; (2) Attach the first copy to the employee's SF 2806/SF 3100 (Individual Retirement Record) and forward both to the Office of Personnel Management, Retirement Operations Center, Post Office Box 45, Boyers, PA 16017-0045; (3) Send the second copy to the tribal organization; (4) Send the third copy to the employee.
6. For instructions concerning the processing and maintenance of the employee's life and health insurance records, see the Federal Employees Group Life Insurance Handbook for Personnel and Payroll Offices and the Federal Employees Health Benefits Handbook for Personnel and Payroll Offices.

Instructions for Tribal Organizations

Consult your liaison officer if you have any questions about what the employee is entitled to under the law and what your responsibilities are.

Mark the appropriate boxes to show the coverage for which the tribal organization elects to make contributions. You should mark:

- **Box I** for the Civil Service Retirement system -- CSRS/FERS
- **Box J** for the Federal Employees Health Benefits Program
- **Box K** for the Federal Employees' Group Life Insurance Program (No contributions are made by the tribal organization for optional coverage.)

- **Box L** to continue Thrift Savings Plan
- **Box M** if you DO NOT want to contribute to any of the benefits.

IT IS THE TRIBAL ORGANIZATION'S RESPONSIBILITY TO FILL IN THE APPROPRIATE SECTIONS OF THE FORM PRIOR TO THE EMPLOYMENT OF A FEDERAL EMPLOYEE. After completion, the form should be returned to the Federal employee or sent to his or her agency. That agency will mail a copy of the completed form, after it has been certified (as dated in the agency receipt block), to the tribal organization.

Instructions for Transferring Employees

If you have any questions about your rights under the law, consult your employing office prior to your employment by the tribal organizations.

You can only retain those benefits you had at the time of your departure from Federal employment. Mark the appropriate boxes to show your choice of coverage. You should mark:

- **Box A** to retain Civil Service retirement coverage (CSRS/FERS)
- **Box B** to retain Federal Employees Health Benefits coverage
- **Box C** to retain **Basic Life** insurance under the Federal Employees' Group Life Insurance Program (You must elect to retain the Basic Life insurance coverage before you can elect any optional coverage.)
- **Box D** to retain **Option A--Standard** insurance under the Federal Employees' Group Life Insurance Program
- **Box E** to retain **Option B--Additional** insurance under the

Federal Employees' Group Life Insurance Program. Also mark the box showing the number of multiples of pay to be retained.

- **Box F** to retain **Option C--Family** insurance under the Federal Employees' Group Life Insurance Program
- **Box G** to continue TSP matching basic and contributions
- **Box H** if you DO NOT want to retain your benefits.

You cannot continue these benefits unless you mark the appropriate boxes, have the tribal organization complete its portions, and either you or the tribal organization return the form to your current employing office. Your employing agency will mail a copy of the completed form to you and to the tribal organization. If you fail to file this form, you will forfeit your right to retain the benefits.

IT IS YOUR RESPONSIBILITY TO HAVE THE TRIBAL ORGANIZATION FILL IN THE APPROPRIATE INFORMATION PRIOR TO EMPLOYMENT BY THAT TRIBAL ORGANIZATION.

Privacy Act Statement

Title 5, U.S. Code, Chapter 83, Retirement, authorizes solicitation of this information. The data you furnish will be used to determine your eligibility to retain your retirement, life insurance, and health benefits coverage. This information may be shared with national, state, local, or other charitable or social security administrative agencies to determine and issue benefits under their programs or with law enforcement agencies when they are investigating a violation or potential violation of the civil or criminal law. Provision of this information is voluntary; however, failure to supply all of the requested information may result in inability to determine if you are eligible to retain retirement, life insurance, and health benefits coverage.

Reverse of RI 38-130